

AMENDED IN SENATE JULY 21, 2003

AMENDED IN SENATE JUNE 30, 2003

AMENDED IN ASSEMBLY MAY 7, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 544**

**Introduced by Assembly Member Montanez**

February 18, 2003

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An act to amend Section 7026.1 of the Business and Professions Code, relating to contractors, *and making an appropriation therefor.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 544, as amended, Montanez. Contractor: temporary labor.

Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensure and regulation of contractors. Existing law defines contractor and includes certain persons who maintain or service air-conditioning or heating units, submit a bid to construct a building, or perform tree removal within that definition. *Existing law requires contractors to pay specified fees that are deposited into the continuously appropriated Contractors' License Fund. Under existing law, it is a crime for any person to act as a contractor without a license.*

This bill would also define contractor to include certain work activity provided by a temporary labor service agency. *Because the bill would increase fees deposited into the Contractors' License Fund, the bill would make an appropriation. Because this bill would expand the*

*definition of a contractor and create new crimes, the bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 7026.1 of the Business and Professions
- 2 Code is amended to read:
- 3 7026.1. The term “contractor” includes:
- 4 (a) Any person not exempt under Section 7053 who maintains
- 5 or services air-conditioning, heating, or refrigeration equipment
- 6 that is a fixed part of the structure to which it is attached.
- 7 (b) Any person, consultant to an owner-builder, firm,
- 8 association, organization, partnership, business trust, corporation,
- 9 or company, who or which undertakes, offers to undertake,
- 10 purports to have the capacity to undertake, or submits a bid, to
- 11 construct any building or home improvement project, or part
- 12 thereof.
- 13 (c) A temporary labor service agency that, as the employer,
- 14 provides employees for the performance of work covered by this
- 15 chapter. The provisions of this subdivision ~~do~~ shall not apply if
- 16 ~~there is a properly licensed contractor supervising the work who~~
- 17 *there is a properly licensed contractor who exercises supervision*
- 18 *in accordance with Section 7068.1 and who* is directly responsible
- 19 for the final results *of the work*. Nothing in this subdivision shall
- 20 require a qualifying individual, as provided in Section 7068, to be
- 21 present during the supervision of work covered by this chapter. A
- 22 contractor requesting the services of a temporary labor agency
- 23 shall provide his or her license number to that temporary labor
- 24 service agency.
- 25 (d) Any person not otherwise exempt by this chapter, who
- 26 performs tree removal, tree pruning, stump removal, or engages in
- 27 tree or limb cabling or guying. The term contractor does not

1 include a person performing the activities of a nurseryman who in  
2 the normal course of routine work performs incidental pruning of  
3 trees, or guying of planted trees and their limbs. The term  
4 contractor does not include a gardener who in the normal course  
5 of routine work performs incidental pruning of trees measuring  
6 less than 15 feet in height after planting.

7 (e) Any person engaged in the business of drilling, digging,  
8 boring, or otherwise constructing, deepening, repairing,  
9 reperforming, or abandoning any water well, cathodic protection  
10 well, or monitoring well.

11 *SEC. 2. No reimbursement is required by this act pursuant to*  
12 *Section 6 of Article XIII B of the California Constitution because*  
13 *the only costs that may be incurred by a local agency or school*  
14 *district will be incurred because this act creates a new crime or*  
15 *infraction, eliminates a crime or infraction, or changes the penalty*  
16 *for a crime or infraction, within the meaning of Section 17556 of*  
17 *the Government Code, or changes the definition of a crime within*  
18 *the meaning of Section 6 of Article XIII B of the California*  
19 *Constitution.*

